

**TRANSCRIPT OF RECORD**

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**Supreme Court of the United States**

**OCTOBER TERM, 1960**

**No. 122**

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**ARMANDO PIEMONTE, PETITIONER,**

**vs.**

**UNITED STATES.**

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**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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**PETITION FOR CERTIORARI FILED JUNE 2, 1960  
CERTIORARI GRANTED OCTOBER 10, 1960**

# SUPREME COURT OF THE UNITED STATES

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[fol. A]

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

\_\_\_\_\_  
No. 12819  
\_\_\_\_\_

In Re Certain Grand Jury Proceedings,

In Re ARMANDO PIEMONTE, Appellant,

vs.

UNITED STATES OF AMERICA, Appellee.  
\_\_\_\_\_

Appeal from the United States District Court for the  
Northern District of Illinois, Eastern Division.

Honorable William J. Campbell, Judge Presiding.

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**Appellant's Appendix**

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[fol. 1]

**DOCKET ENTRIES**

\_\_\_\_\_

- 8-13-59 Clerk's file copy of transcript of proceedings before the July 1959 Term Federal Grand Jury on August 10, 1939, filed by the Official Court Reporter (Suppressed by order of Judge Campbell 8-13-59)
- 8-13-59 Filed Petition of R. Tieken, U.S. Atty. with his affidavit and Ex. B
- 8-13-59 Filed Memorandum in support of petition for an order directing Armondo Piemonte to answer questions before the Grand Jury
- 8-13-59 Enter order directing Armondo Piemonte to answer certain questions before Grand Jury—Draft  
\*—Campbell, J.



8-28-59 Clerk's file copy of transcript of proceedings had before the Honorable William J. Campbell, Chief District Judge on August 13, 1959, filed by the Official Court Reporter

8-14-59 Clerk's file copy of transcript of proceedings had before the July 1959 Term Federal Grand Jury on August 14, 1959, filed by the Official Court Reporter (Suppressed & Impounded)

8-28-59 Clerk's file copy of transcript of proceedings had before the Honorable William J. Campbell, Chief District Judge on August 14, 1959, filed by the Official Court Reporter

8-14-59 Enter order to show cause on Armondo Piemonte  
—Draft—

[fol. 2]

The Court grants respondents counsel leave to review the suppressed and impounded transcripts filed herein on August 13 and August 14, 1959. Motion of respondent for jury trial denied. Hearing on the order to show cause and the return thereon set for 4 p.m. August 18, 1959—Campbell, J.

8-28-59 Clerk's file copy of transcript of proceedings had before the Honorable William J. Campbell, Chief District Judge on August 18, 1959, filed by the Official Court Reporter

8-18-59 Evidence and arguments heard. The Court adjudges the respondent guilty of contempt for his wilful failure to obey a lawful order of this Court. Respondent committed to the custody of the Attorney General for confinement for 18 months, said sentence to run consecutively to the sentence the respondent is now serving in the U. S. Penitentiary at Leavenworth, Kansas, that is to say, the sentence imposed this day shall commence on the termination of the sentence the respondent is now serving. Respondent remanded to the cus-

tody of the U. S. Marshal for return to the U. S. Penitentiary at Leavenworth, Kansas—Draft—Campbell, J.

- 8-27-59 Filed notice of Appeal of Armondo Piemonte \$5.00 pd  
Mailed copy of notice of appeal to U.S. Atty.
- 10- 1-59 Filed Statement pursuant to Rule 12(d) of the U.S.C.A. 7th Cir. of appellee, U.S.A.
- [fol. 3]
- 10- 5-59 Motion to extend time for filing record in Court of Appeals, to 10-26-59 and motion to relieve record from order of suppression as to Counsel for respondent A. Piemonte are both granted. Counsel for said respondent directed to prepare a draft order and to submit the same for signature—Campbell, J.
- Mailed notice to attys. 10-9-59
- 10-21-59 Order making available certain records, as per Draft—Campbell, J.
- Notice mailed to Attys. 10-21-59
- 10-22-59 Draft order heretofore entered hereon on Oct. 21, 1959, extending time to file record on appeal to Nov. 2, 1959 presented and signed by the Court—Draft—Campbell, J.
- Mailed notice to Attys. 10-22-59
- 10-22-59 Filed Respondent's exhibits Nos. 1 and 2
- 10-29-59 Filed Stipulation as to contents of record on appeal

[fol. 4]

PROCEEDINGS BEFORE THE FEDERAL GRAND JURY—  
Monday, August 10, 1959

1:30 o'clock p.m.

The Grand Jury reconvened pursuant to recess.

Present:

Mr. Max H. Goldschein,  
Mr. Robert S. Bailey,  
Mr. D. Arthur Connelly.

ARMANDO PIEMONTE, called as a witness by the Grand Jury, having been first duly sworn by the Foreman, was examined and testified as follows:

Examination.

By Mr. Goldschein:

Q. What is your name, please?

A. Armando Piemonte, A-r-m-a-n-d-o P-i-e-m-o-n-t-e.

Q. You are now incarcerated in the penitentiary, are you not, Mr. Piemonte?

A. That's right.

Q. Which one?

A. Leavenworth Penitentiary.

Q. You are serving a term of six years?

A. Six years.

Q. And that is for the sale and possession of heroin?

A. Yes, sir.

Q. Mr. Piemonte, that sale and possession of heroin, there were two sales, were there not, one ounce and 95 grains of heroin that you sold for \$3100.00, and another sale—the first one was on November 23, 1957, and the second [fol. 5] one was on November 27, 1957, when you sold eight ounces 354 grains for \$3,000.00 to Agent Davis; those were the charges in the indictment?

A. Right.

Q. Now, Mr. Piemonte, our information is that you were in the narcotic business—Strike that question.

These two sales of heroin, the first one for \$3100.00, and the second one for \$3,000.00, on November 23, 1957, and November 27, 1957, will you tell the Grand Jury, please, where you got that heroin?

A. Sir, I am taking the 5th Amendment. I decline to answer any questions under the Constitution, the 5th Amendment.

Q. Mr. Piemonte, you requested this morning that you be permitted to call your counsel.

A. Yes.

Q. And your counsel did come in to see us, and we did call the Marshal and asked the Marshal to let him see you. Now, you did see him, didn't you, your lawyer?

A. Yes, sir.

Q. You had an opportunity to consult with him?

A. Yes, sir.

Q. Didn't your lawyer advise you, Mr. Piemonte, on those matters that you pleaded guilty to in the indictment that you have no Constitutional privilege against self-incrimination?

A. He didn't put it that way. He just says there is a law, something about answering these questions. I don't know.

Q. There is what?

A. Something about a law about answering these questions.

[fol. 6] Q. Yes.

A. I told him I am taking the 5th Amendment, I ain't answering no questions.

Q. Well, all right. I am going to ask the questions, and you can answer them as you like. You know what your rights are, you say, and you use your own judgment on that.

Mr. Piemonte, were you in the narcotics business in 1954?

A. I decline to answer on the ground it may incriminate me.

Q. Do you know a Lawrence Geraci?

A. I decline to answer on the ground it may incriminate me.

Q. Did you sell him 216½ ounces of marijuana?

A. I decline to answer on the grounds it may tend to incriminate me.

Q. Did you, on December 16, 1955, also sell him two ounces of heroin for \$900.00?

A. I decline to answer. It may tend to incriminate me.

Q. Mr. Piemonte, do you know John Ormento? They call him "Big John" Ormento, New York City?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Joe Orsini?

A. I decline to answer. It may tend to incriminate me.

Q. Did you ever get any heroin from "Big John" Ormento?

A. I decline to answer. It may tend to incriminate me.

Q. Will you tell the Grand Jury whether or not you got this heroin which you are charged with selling in this indictment, on which you pleaded guilty, the heroin you sold on November 23, 1957, for \$3100.00, and the heroin you sold to Agent Davis on November 27, 1957, for \$3,000.00?

[fol. 7] A. I decline to answer. It may tend to incriminate me.

Q. I am talking about the heroin in these particular sales. Did you get that heroin from "Big John" Ormento?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Joe Orsini?

A. I decline to answer. It may tend to incriminate me.

Q. Did you get that heroin from Joe Orsini?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Harry Schennault?

A. I decline to answer. It may tend to incriminate me.

Q. Did you get that particular heroin from Harry Schennault?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Mike Condie?

A. I decline to answer. It may tend to incriminate me.

Q. Did you get that heroin from Mike Condie?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Sam Serritella?

A. I decline to answer. It may tend to incriminate me.

Q. Is Sam Serritella in the heroin business?

A. I decline to answer. It may tend to incriminate me.

Q. Did you ever buy any heroin from Sam Serritella?

A. I decline to answer. It may tend to incriminate me.

Q. Did you buy the particular heroin involved in these two sales, involved in the indictment, from Sam Serritella?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Nathan Chiarelli?

A. I decline to answer. It may tend to incriminate me.

[fol. 8] Q. C-h-i-a-r-e-l-l-i?

A. I decline to answer. It may tend to incriminate me.

Q. Is he in the narcotics business?

A. I decline to answer. It may incriminate me.

Q. Did you ever buy any narcotics from him?

A. I decline to answer. It may tend to incriminate me.

Q. Did you buy the heroin involved in this particular case?

A. I decline to answer. It may tend to incriminate me.

Q. (Continuing) From Chiarelli?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Arnold Romano? All these that I just mentioned are New York City.

A. I decline to answer. It may tend to incriminate me.

Q. Arnold Romano, also of New York City?

A. I decline to answer, sir.

Q. Did you buy any heroin from him?

A. I decline to answer. It may tend to incriminate me.

Q. Did you buy this particular heroin referred to the sales referred to in November, 1957, from Arnold Romano?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Peter Christiano?

A. I decline to answer. It may tend to incriminate me.

Q. Did you, within the past ten years, buy any heroin from Peter Christiano?

A. I decline to answer. It may tend to incriminate me.

Q. Did you buy this heroin involved in your sales in 1957 from Peter Christiano?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Sal Nugara?

A. I decline to answer. It may incriminate me.

Q. Did you buy any heroin from him?

A. I decline to answer. It may incriminate me.

[fol. 9] Q. Did you buy the heroin involved in these two sales you made in November of 1957 from Sal Nugara?

A. I decline to answer. It may tend to incriminate me.



Q. Do you know Helen Mack?

A. I decline to answer. It may incriminate me.

Q. Referring to the Helen Mack that was indicted with you in this case, involving the sales in November, 1957?

A. I decline to answer. It may tend to incriminate me.

Q. Did you ever sell any heroin to Helen Mack?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Sam Moore?

A. I decline to answer. It may incriminate me.

Q. Did you ever buy any heroin from Sam Moore?

A. I decline to answer. It may incriminate me.

Q. Is Sam Moore in the narcotics business?

A. I refuse to answer. It may incriminate me.

Q. Did you buy this heroin involved in these two sales that you made in November, 1957, from Sam Moore?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Coyit Baker?

A. I decline to answer. It may tend to incriminate me.

Q. Is Coyit Baker in the narcotics business?

A. I decline to answer. It may incriminate me.

Q. Did you ever buy any heroin from Coyit Baker?

A. I decline to answer. It may incriminate me.

Q. Did you buy the heroin in these two sales in November, 1957, from Coyit Baker?

A. I refuse to answer. It may incriminate me.

Q. Howard Frye?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know him?

A. I decline to answer. It may incriminate me.

[fol. 10] Q. Is he in the narcotics business?

A. I decline to answer. It may incriminate me.

Q. Did you ever buy any heroin from him?

A. I decline to answer. It may incriminate me.

Q. Did you buy the heroin in these two counts of the indictment in which you were charged with selling heroin in November, 1957, from Howard Frye?

A. I decline to answer. It may incriminate me.

Q. Will you step outside, Mr. Piemonte?

(Witness excused.)

## IN THE UNITED STATES DISTRICT COURT

(Caption—G. J. No. 10507)

PETITION FOR ORDER DIRECTING ANSWERS TO QUESTIONS—  
Filed August 13, 1959

Now comes R. Ticken, United States Attorney for the Northern District of Illinois, and presents to this Honorable Court as follows:

1. That the Grand Jury for the Northern District of Illinois is presently conducting an investigation of illegal trafficking in narcotics in said District and elsewhere.

2. That the said investigation involves violation of:

a) those provisions of part I and part II of subchapter A of chapter 39 of the Internal Revenue Code of 1954, the penalty for which is provided in subsections (a) or (b) of section 7237 of such code.

b) subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 USC, Sec. 174); or

[fol. 11] c) the Act of July 11, 1941, as amended (21 USC; Sec. 184(a)).

3. That in the judgment of your petitioner, the testimony of Armondo Piemonte is, in the public interest, necessary in said investigation, as evidenced by the Affidavit of your petitioner attached hereto and marked Exhibit A.

4. That this application is made with the approval of the Attorney General of the United States, as evidenced by his letter dated August 11, 1959 attached hereto and marked Exhibit B.

5. That the witness, Armondo Piemonte, was ordered to appear before the aforesaid Grand Jury; and on the 10th day of August, 1959, he was questioned on matters included in the above-referred to statutes and claimed the constitutional privilege against self-incrimination in lieu of answering, and the Court found the claim proper.



Wherefore, it is prayed that this Honorable Court issue its order directing the said Armondo Piemonte to testify and produce evidence before said Grand Jury relative to the afore-mentioned inquiry of said Grand Jury.

And, Further, that this Honorable Court direct that the said Armondo Piemonte shall not be excused from testifying or producing evidence before said Grand Jury on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, in accordance with Sec. 1406, Title 18, United States Code.

[fol. 12]

### EXHIBIT A TO PETITION

IN THE UNITED STATES DISTRICT COURT

(Caption—G. J. No. 10507)

### AFFIDAVIT.

A. Tieken, being first duly sworn, deposes and says:

1. That he is the United States Attorney for the Northern District of Illinois;

2. That the Grand Jury for the Northern District of Illinois, Eastern Division, is presently conducting an investigation of illegal trafficking in narcotics in said District and in other Districts in the United States of America;

3. That said illegal trafficking in narcotics involves violations of:

- (1) those provisions of Part 1 and/or Part II of subchapter A of Chapter 39 of the Internal Revenue Code of 1954 (the penalty for which is provided in subsection (a) or (b) of Section 7237 of such Code);
- (2) Subsections (c), (h) or (i) of Section 2 of the Narcotic Drugs Import and Export Act, as amended, being Section 174, Title 21, United States Code;

(3) the Act of July 11, 1941, as amended (being Section 134(a), Title 21, United States Code);

4. Said Grand Jury has reasons to believe that one Armondo Piemonte has information in this possession and can give testimony to this Grand Jury which would assist it in its aforesaid investigation.

5. That it is in the public interest that the said Armondo Piemonte give testimony before the said Grand Jury relative to said investigation and inquiry.

6. That it is in the public interest that the said Armondo Piemonte be granted immunity from further prosecution and shall not be subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerned with or related to his testimony before the said Grand Jury;

7. That he, the said R. Ticken, United States Attorney, makes this assertion and this application before this Honorable Court in complete good faith;

8. That William P. Rogers, Attorney General of the United States of America, approves the action and application made before this Honorable Court.

Further deponent sayeth not.

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EXHIBIT B TO PETITION

OFFICE OF THE ATTORNEY GENERAL  
Washington, D. C.

August 11, 1959

Mr. Robert Ticken  
United States Attorney  
Chicago 4, Illinois

Dear Mr. Ticken:

Your request for authorization to apply for an order instructing Armondo Piemonte to testify or produce evidence in accordance with the Narcotic Control Act of 1956 (70 Stat. 567) has been communicated to this Department.

Upon due consideration of all pertinent factors, I find that the testimony and production of evidence by Armondo Piemonte is necessary to the public interest.

Accordingly, you are hereby authorized to make application to the United States District Court for an order instructing the named individual to testify and produce evidence before the Grand Jury and Court in accordance with Section 1406 of the Narcotic Control Act of 1956.

Sincerely,

William P. Rogers  
Attorney General

[fol. 14]

IN THE UNITED STATES DISTRICT COURT

• • • Caption—G. J. No. 10507 • • •

ORDER DIRECTING ANSWERS TO QUESTIONS—August 13, 1959

Application having been made to this Honorable Court by R. Ticken, United States Attorney for the Northern District of Illinois, and Max H. Goldschein, Special Attorney, Department of Justice, said application reciting that the Grand Jury for the Northern District of Illinois is presently conducting an investigation involving violations of:

- a) those provisions of Part I and Part II of subchapter A of Chapter 39 of the Internal Revenue Code of 1954, the penalty for which is provided in subsections (a) or (b) of Section 7237 of such code,
- b) subsection (c), (h), or (i) of Section 2 of the Narcotic Drugs Import and Export Act, as amended (21 USC, Section 174), or
- c) the Act of July 11, 1941, as amended (21 USC, Sec. 184(a));

that the testimony of Armondo Piemonte is necessary in said investigation and is in the public interest that the said R. Ticken makes this application in complete good faith and with the approval of the Attorney General of the

United States of America; that the said Armondo Piemonte has appeared before the said Grand Jury and claimed his constitutional privilege against self-incrimination in lieu of answering its questions,

And the Court finding that the constitutional privilege asserted by Armondo Piemonte was properly asserted in that answers to the questions propounded would tend to incriminate Armondo Piemonte,

[fol. 15] It Is Therefore Ordered that the said Armondo Piemonte if and when called before the Grand Jury to testify and produce evidence before said Grand Jury relative to the aforementioned inquiry of said Grand Jury, that the said Armondo Piemonte shall not be excused from testifying or producing evidence before said Grand Jury on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but shall answer said questions.

This order is made in accordance with Section 1406, Title 18, United States Code.

W. J. Campbell, United States District Court Judge.

Dated: August 13, 1959.

IN THE UNITED STATES DISTRICT COURT

• • (Caption—G. J. No. 10507) • •

**Transcript of Proceedings of August 13, 1959**

**—Filed August 28, 1959**

Transcript of proceedings had in the above-entitled cause, before The Hon. William J. Campbell, Chief Judge of said Court, in his courtroom, U. S. Courthouse, Chicago, Illinois, August 13, 1959, at 3:15 o'clock, p.m.

Present: Mr. Max H. Goldscheine, Special Attorney, Department of Justice, and Mr. Arthur D. Connelly, Assistant United States Attorney, On behalf of the Government.

The Clerk: In the matter of the July, 1959 Grand Jury.

[fol. 16]

## COLLOQUY BETWEEN COURT, COUNSEL AND DEFENDANT

The Court: You have a presentment to make?

Mr. Goldschein: Yes, may it please the Court.

The Court: I will hear you.

Mr. Goldschein: May it please your Honor, the July, 1959 Grand Jury requests that I present to your Honor the transcript of testimony of a witness before that Grand Jury, Armand Piemonte.

The Court: Is he here?

Mr. Piemonte: Yes.

The Court: Have him step forward. Proceed.

Mr. Goldschein: Armand Piemonte is now serving a term in the Federal penitentiary on a narcotics charge.

He was asked certain questions before the Grand Jury pertaining to where he received or from whom he obtained the narcotics which he was charged with in the indictment upon which he pleaded guilty, and was sentenced to the penitentiary.

Mr. Piemonte claimed constitutional privilege against self-incrimination of all questions propounded to him after he gave his name and address.

Based upon some recent decisions of the Appellate Court so that the Court would not have any misconception of the idea of the Government counsel on this matter, we, too, think that the constitutional privilege claimed by the witness is well taken in this matter.

We would like to offer at this time the transcript of testimony of Mr. Piemonte before the Grand Jury from Pages 620 to 630 of this transcript, and ask that the Court respectfully rule on those questions, and determine whether or not the constitutional privilege is properly invoked.

The Court: Do I understand you to say you think it has been properly invoked?

Mr. Goldschein: We do.

[fol. 17] The Court: That he should not be required to answer?

Mr. Goldschein: Well, we think he could not be required to answer those questions under the privilege. So that the Court will know the purpose of being here this time, if the

Court finds that the question of privilege is here properly invoked and we prefer to go on the basis of a Court's ruling—

The Court: Yes.

Mr. Goldschein: —we intend to ask the Court to grant the witness immunity from prosecution under the 1956 Narcotics Control Act; that we have been authorized by the Attorney General to advise the Court that we are, with the approval of the Attorney General, asking the Court to grant this witness immunity, and order him to answer questions pertaining to the narcotics traffic.

The Court: Very well. Would you please hand up the transcript?

Mr. Goldschein: Yes.

The Court: You may be seated at counsel table.

Pages 620 to '30, you say?

Mr. Goldschein: Yes, sir. That is the first.

The Court: Starting at the beginning?

Mr. Goldschein: Yes, Judge.

The Court: Well, other than the original questions on Pages 620 and '21 and possibly 622 concerning the heroin for the sale and possession of which he is now serving a term—

Mr. Goldschein: Yes.

The Court: I doubt that the privilege against self-incrimination would apply there, since he is already charged with those and has pleaded or has been found guilty and is serving his term; but as far as all of the rest of the [fol. 18] testimony that you referred to, I certainly think that it would tend to incriminate the witness, and that he is correct in his refusal to answer the questions if he desires to assert his privilege under the Fifth Amendment.

Mr. Goldschein: Very well, your Honor.

Now, at this time, with the permission of the Court, I would like to file this petition, so that the Court will have it.

The Court: Yes, you may do so.

Mr. Goldschein: Now, may it please the Court, may I substitute for the testimony that you just read of Mr. Piemonte, a ThermoFax copy of that testimony taken from this book—

The Court: Yes. Yes, certainly. That may be filed of record here, and let the same be suppressed. The Grand Jury is still sitting?

Mr. Goldschein: Yes.

The Court: This may be substituted and the Clerk may file it, but have the file suppressed. Very well. I find the petition in proper form. The same is granted.

You are the witness named in the—

Mr. Piemonte: Armand Piemonte?

The Court: —petition. You are Armand Piemonte?

Mr. Piemonte: Yes, sir.

The Court: Very well. Pursuant to the application of the United States Attorney and the Attorney General of the United States, I find that you are a necessary and material witness to the Grand Jury investigation now being conducted by the July, is it, Grand Jury?

Mr. Goldschein: Yes, sir.

The Court: Of this District. And in accordance with the provisions of the Narcotic Control Act, this Court now grants you immunity from prosecution which might arise [fol. 19] from any answers that you give to this Grand Jury concerning the matter of their investigation.

It, therefore, is no longer necessary for you to invoke the protection of the Fifth Amendment to protect yourself from incrimination or subsequent prosecution, because pursuant to the provisions of the Narcotic Control Act, I now grant you immunity from such prosecution and direct you to answer the questions propounded to you by the Grand Jury.

Do you understand the order of the Court?

Mr. Piemonte: Yes, sir, your Honor.

The Court: Very well.

Mr. Piemonte: I would like to know if I could get to talk to my lawyer.

The Court: You certainly can. I direct that the witness may be held by the United States Marshal in his office for the remainder of the afternoon, and be allowed to telephone to his attorney and have his attorney come and counsel with him in the Marshal's office in secret any time during the rest of the afternoon.

I direct that the Grand Jury do not resume its interro-



gation until tomorrow morning, after the witness has had an opportunity to confer with his attorney.

Should the witness, upon the reconvening of the Grand Jury, fail to abide by the order of the Court just entered, he is to be brought back to the Court and presented for punishment, or for contempt, for failure to abide by the order of the Court at that time.

Should such occasion be necessary, a citation, of course, will issue. He will be represented by counsel, and a full hearing held before any imposition of penalty.

Mr. Goldschein: For the purpose of the record, may it please the Court, before the witness appeared before the Grand Jury, he asked to be permitted to talk to counsel, and he was so permitted.

[fol. 20] The Court: I noticed that in the transcript, yes. See that he has the same right again this afternoon.

Mr. Goldschein: Yes.

The Court: You may confer with your lawyer, and then depending upon your action tomorrow, will depend on whether or not there is a further Court proceeding.

You are at this time, however, granted immunity from prosecution and directed to answer the questions. You may consult with your attorney, and the Marshal will have him before the Grand Jury—will they be sitting again tomorrow morning?

Mr. Goldschein: Yes.

The Court: Have him before the Grand Jury tomorrow morning.

Mr. Goldschein: Thank you, your Honor.

(Which were all the proceedings had at the hearing of the above-entitled cause.)

Reporter's Certificate (omitted in printing).



[fol. 21]

## PROCEEDINGS BEFORE THE GRAND JURY

(Caption—G. J. No. 10507)

**Transcript of Proceedings of August 14, 1959  
—Filed August 14, 1959**

In Re: Grand Jury Investigation, Grand Jury No. 10507,  
Before The Federal Grand Jury, For The July 1959 Term.

Date: August 14, 1959  
10:00 a.m.

Leon M. Golding & Associates, Court Reporters, First  
National Bank Building, Chicago.

ARMANDO PIEMONTE, recalled as a witness by the Grand  
Jury, having been previously duly sworn by the Foreman,  
was examined and testified further as follows:

Direct examination.

By Mr. Goldschein:

Q. Your name is Armando Piemonte, sir?

A. Right.

Q. You are at the present time confined in the Leavenworth Penitentiary and are here on a writ?

A. Right.

Q. Now, Mr. Piemonte, the Judge on yesterday, you recall, Judge Campbell, granted you immunity and ordered you to answer questions propounded to you before this Grand Jury concerning narcotics.

Do you recall that?

A. Right.

[fol. 22] Q. Now I am going to go over some of those questions that you claimed your privilege on and repeat them to you.

Now you were convicted in the Federal Court here in Chicago for the sale of heroin on November 23, 1957 that you got \$3100 for and another sale on the 27th day of November 1957 that you got \$3,000 for.

Now those were the two sales upon which you were convicted and sentenced to the penitentiary at Leavenworth, is that right?

A. Right.

Q. Now the question:

These two sales of heroin, the first one for \$3100 and the second one for \$3,000 on November 23, 1957 and November 27, 1957, will you tell the Grand Jury, please, where you got that heroin?

A. I stand on the Fifth Amendment. I decline to answer as it may tend to incriminate me.

Q. Mr. Piemonte, were you in the narcotics business in 1954?

A. I decline to answer. It may tend to incriminate me.

Q. Do you know Lawrence Geraci?

A. I decline to answer. It may tend to incriminate me.

Q. Did you sell him 216½ ounces of marijuana?

A. I decline to answer; it may tend to incriminate me.

Q. Did you on December 16, '55 also sell him two ounces of heroin for \$900?

A. I decline to answer; it may tend to incriminate me.

Q. Do you know John Ormento?

A. I decline to answer; it may tend to incriminate me.

Q. Did you buy any heroin from John Ormento?

A. I decline to answer; it may tend to incriminate me.

[fol. 23] Q. Did you ever receive any heroin from "Big John" Ormento?

A. I decline to answer; it may tend to incriminate me.

Q. Will you tell the grand jury whether or not you got this heroin which you were charged with selling in this indictment on which you pleaded guilty,—the heroin you sold on November 23, 1957 for \$3100 and the heroin you sold to Agent Davis on November 27, 1957, for \$3,000—

A. I decline to answer; it may tend to incriminate me.

Q. I am talking about the heroin on these particular sales.

A. I decline to answer.

Q. Did you get that heroin from "Big John" Ormento?

A. I decline to answer; it may tend to incriminate me.

Q. Do you know John Orsini?

A. I decline to answer; it may tend to incriminate me.

Q. Instead of repeating the whole formula, Mr. Piemonte, if you want to say "same answer," it means the same thing.

A. All right.

Q. Did you get this heroin from Joe Orsini?

A. Same thing.

Q. Same answer?

A. Same answer.

Q. Do you know Harry Schennault?

A. Same answer.

Q. Did you get that particular heroin from Harry Schennault?

A. Same answer.

Q. Do you know Mike Condie?

A. Same answer.

Q. Did you get that heroin from Mike Condie?

A. Same answer.

[fol. 24] Q. Did you ever get any heroin from Sam Seritella?

A. Same answer.

Q. Can you tell the Grand Jury whether Sam Seritella is in the heroin business?

A. Same answer.

Q. Do you know Nathan Chiarelli?

A. Same answer.

Q. Did you ever get any heroin from him?

A. Same answer.

Q. Will you tell the Grand Jury whether or not you know that he is in the narcotics business?

A. Same answer.

Q. Do you know Arnold Romano?

A. Same answer.

Q. Did you ever get any heroin from Arnold Romano?

A. Same answer.

Q. Did you get any of this heroin that you were charged with selling in November of 1957 from Arnold Romano?

A. Same answer.

Q. Do you know Peter Christiano?

A. Same answer.

Q. Did you within the past ten years buy any heroin from Peter Christiano?

A. Same answer.

Q. Did you get this heroin you sold in November of 1957 as charged in the indictment on which you were convicted from Peter Christiano?

A. Same answer.

Q. Do you know Sal Nugara?

A. Same answer.

Q. Did you ever buy any heroin from him?

A. Same answer.

Q. Have you seen him within the past three years?

A. Same answer.

[fol. 25] Q. Did you buy any heroin from him after 1954?

A. Same answer.

Q. Do you know Helen Mack?

A. Same answer.

Q. You were indicted with Helen Mack, weren't you?

A. Same answer.

Q. Did you supply Helen Mack with heroin?

A. Same answer.

Q. Do you know Sam Moore?

A. Same answer.

Q. Did you get any heroin from Sam Moore in the past six years?

A. Same answer.

Q. Will you tell the Grand Jury whether or not Sam Moore is in the heroin business?

A. Same answer.

Q. Will you tell the Grand Jury whether the heroin that you were charged with selling in November of 1957 and for which you are now serving time you obtained from Sam Moore?

A. Same answer.

Q. Do you know Coyit Baker?

A. Same answer.

Q. Did you ever buy any heroin from him since 1954?

A. Same answer.

Q. Is Coyit Baker in the narcotics business now?

A. Same answer.

Q. Howard Frye?

A. Same answer.

Q. Did you buy any heroin from him since 1954?

A. Same answer.

Q. Is he in the narcotics business now?

A. Same answer.

[fol. 26] Q. Do you know Nathaniel Spurlark?

A. Same answer.

Q. Of Chicago?

A. Same answer.

Q. Have you supplied him with any heroin prior to going to the penitentiary?

A. Same answer.

Q. Have you since 1954 supplied Nathaniel Spurlark with heroin?

A. Same answer.

Q. Do you know Jeremiah Pullings?

A. Same answer.

Q. Of Chicago?

A. Same answer.

Q. Have you supplied Jeremiah Pullings with any heroin?

A. Same answer.

Q. Do you know or will you tell the Grand Jury whether or not you know Spurlark to be one of the largest wholesalers of heroin in the illicit traffic business in Chicago?

A. Same answer.

Q. How about Pullings?

A. Same answer.

Q. Will you tell the Grand Jury whether or not Pullings is one of the largest traffickers in heroin in Chicago?

A. Same answer.

Mr. Goldschein: All right.

Thank you very much.

Will you step outside, please?

(Witness excused.)

State of Illinois,  
County of Cook—ss.

oDorothy F. Brackenberg and ....., each for himself and herself being duly sworn, say that they are shorthand reporters regularly and generally engaged in the [fol. 27] practice of their profession in the courts and at other places where the service of expert shorthand reporters are employed; that they as such shorthand reporters in shorthand the proceedings before the July 1959 term

Federal Grand Jury on the ..... day of August as shown in the foregoing pages of transcript;

That these affiants appeared before the Grand Jury and reported the proceedings as shown in the following tabulation:

Dorothy F. Brackenberg, Pages 827 to 836, inclusive;

That these affiants each took down in shorthand and reported such parts of said proceedings so taken down in shorthand and reported by him or her to the best of his or her skill and ability as a shorthand reporter and that the above is a true and complete transcript of the shorthand notes so taken down and reported by each of said affiants.

Dorothy F. Brackenberg

Subscribed and sworn to by each of said affiants before me, this 14th day of August, A. D. 1959, Paul A. Ruke, Notary Public.

[fol. 28]

IN THE UNITED STATES DISTRICT COURT

\* \* (Caption—G. J. No. 101,507) \* \*

**Transcript of Proceedings of August 14, 1959.**  
**—Filed August 28, 1959**

Transcript of proceedings had at the hearing of the above-entitled cause, before the Hon. William J. Campbell, Chief Judge of said Court, in his courtroom, U. S. Court-house, Chicago, Illinois, on Friday, August 14, 1959, at 2:00 o'clock, p.m.

**APPEARANCES**

Present: Mr. Max H. Goldschein, Special Attorney, Department of Justice, and Mr. Arthur D. Connelly, Assistant United States Attorney, On behalf of the Government;

Mr. James Piragine, On behalf of the respondent, Piemonte.

## COLLOQUY BETWEEN COURT AND COUNSEL

The Clerk: This is the Grand Jury matter.

The Court: All right. What does the Grand Jury want. What are you waiting on?

Mr. Piragine: I represent Armand Piemonte.

The Court: Will you sit down?

Mr. Piragine: Yes.

The Court: Who is presenting the Grand Jury?

Mr. Goldschein: I am very sorry, your Honor, I didn't know the Court had convened.

The Court: I am quite familiar with the elevator service of this building, and you need not make any apology. You have the transcript?

Mr. Goldschein: Yes, may it please the Court.

The Court: You may hand it up to the Clerk.

Mr. Goldschein: May I ask that this be filed and impounded, sir?

[fol. 29] The Court: The same is received in support of the Government's petition for an order to show cause. It may be filed. It will be impounded.

Mr. Goldschein: May we ask that the one filed yesterday be offered in evidence?

The Court: Yes; yes. That likewise may be received in support of this petition. That has been received, has been filed, and is suppressed.

Mr. Goldschein: Yes.

The Court: Is the witness, Piemonte, in Court?

Mr. Piemonte: Yes.

The Court: Will you step forward?

Mr. Piemonte: Yes.

The Court: I just read the transcript of the proceedings before the Grand Jury this morning.

Do you persist in your refusal to answer these questions?

Mr. Piemonte: Yes, sir.

The Court: Very well. The Grand Jury transcript, as I say, may be filed. The order to show cause and why the witness, Piemonte, should not be punished for deliberate disobedience of a lawful order of this Court will enter and will return for hearing.



You have an attorney representing you, I take it?

Mr. Piemonte: Yes.

The Court: Are you going to represent him?

Mr. Piragine: Yes.

The Court: State your name for the record.

Mr. Piragine: James P. Piragine.

The Court: Do you want to answer the order, or do you want to proceed with the hearing? I will give you a couple of days to get ready. Do you want to proceed with the hearing without filing a formal answer to the order to show cause?

Mr. Piragine: I would proceed on the hearing.

The Court: You do not want a formal order?

[fol 30] Mr. Piragine: No, sir.

The Court: A formal answer to the order to show cause?

Mr. Piragine: No.

The Court: When will you be ready to proceed with the hearing? Incidentally, the order to impound these two transcripts of the Grand Jury is lifted to the effect that the respondent's counsel here may review the transcripts in preparation for the hearing.

Mr. Piragine: Thank you.

The Court: The Clerk is so directed. If you will just go to the Clerk's office any time between now and the date of the hearing, you may review these, to be prepared to argue them at the time of the hearing.

Mr. Piragine: Yes.

The Court: I will not give any extended delay.

Mr. Piragine: No.

The Court: I will give you time to get ready. Would you rather Monday or Tuesday?

Mr. Piragine: I have a matter set specially Monday, which has been set.

The Court: All right. We will set this for Tuesday afternoon.

All right, we will set this for four o'clock, next Tuesday afternoon.

Mr. Piragine: Four o'clock?

The Court: I will have finished my regular call, then, and we can stay as long as necessary for the hearing.



## MOTION FOR JURY TRIAL AND DENIAL THEREOF

Mr. Piragine: The respondent has asked for a jury trial.

The Court: For a jury trial?

Mr. Piragine: Yes.

The Court: On contempt of Court?

Mr. Piragine: Yes, your Honor.

The Court: The motion is denied.

We will proceed before the Court at four o'clock on Tuesday afternoon. That is the 18th of August.

[fol. 31] Mr. Piragine: Yes.

The Court: Be prepared at that time.

Anything else?

Mr. Piragine: The respondent can have an opportunity to have his sister and brother visit him in the lock-up today, Judge?

The Court: That is up to the Bureau of Prisons. He is here as their client. If he was just here under my order, I could give the permission. I do not know what the rules of the Bureau of Prisons are. He is here as a Federal prisoner.

Is that permitted, Mr. Marshal?

The Marshal: He is supposed to bring a visiting list. I think they have a list who can visit them in prison.

Mr. Piemonte: I have an approved visiting list.

The Court: If these people are on it, it is all right for him to see them?

The Marshal: If Mr. Goldschein says it is all right, it is all right. That is the way the Marshal's office has been operating.

The Court: Well, how often are the prisoners in the prison permitted visits?

Mr. Piemonte: Once a month.

The Court: Have you seen these people once a month?

Mr. Piemonte: The third of this month.

The Court: You are kind of jumping the rule a little bit.

Mr. Piemonte: They are here.

The Court: I don't see any objection to it.

Mr. Piragine: If the Marshal has the list of approved persons.

The Court: I do not know if I have authority to give permission, but if I have I give it.

(Which were all of the proceedings had at the hearing of the above-entitled cause.)

[fol. 32]

IN THE UNITED STATES DISTRICT COURT

\* \* (Caption—G. J. No. 10507) \* \*

ORDER TO SHOW CAUSE—August 14, 1959

On the 13th day of August, 1959, this Court after reading questions propounded, and witness Armondo Piemonte's answers and claim of constitutional privilege before the Grand Jury of this Court on August 10, 1959, found there was a real and substantial danger of incrimination; and ordered said transcript filed; and

Upon application of the United States Attorney, approved by the Attorney General, asking that the witness be granted immunity under the Narcotics Control Act of 1957 (Title 18, Sec. 1406, U.S.C.) after hearing found that the application was approved by the Attorney General, was filed in good faith, was in the public interest, and proper; and

Ordered the witness Armondo Piemonte to return before the said duly constituted Grand Jury impaneled July 1959 and answer the questions propounded to him on August 10, 1959, concerning the violation of the narcotics laws of the United States, to wit:

- a) those provisions of part I and Part II or subchapter A of Chapter 39 of the Internal Revenue Code of 1954, the penalty for which is provided in subsections (a) or (b) of section 7237 of such code,
- b) subsections (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 USC, Sec. 174), or
- c) the Act of July 11, 1941, as amended (21 USC, Sec. 184(a)).

which the Grand Jury was investigating and granted him immunity as provided in Title 18, Section 1406, U.S.C. [fol. 33] Thereafter, on the 14th day of August, 1959, in open court, in the presence of the witness Armondo Piemonte, the Court was advised by counsel for the Government in the presence and on behalf of the Grand Jury that the said witness Armondo Piemonte returned before the Grand Jury on that day pursuant to the Order of the Court and was asked the questions propounded to him on the 10th day of August, 1959, which the Court had ordered him to answer, but that he refused to answer said questions and that counsel for the Government filed as an exhibit the Grand Jury Transcript of the questions propounded to him on that day.

The said Armondo Piemonte is therefore ordered to show cause why he should not be held in criminal contempt:

- (a) for wilfully, deliberately and contumaciously shutting off and blocking the search for truth, thwarting the investigation of the said Grand Jury in the matter hereinbefore set out and obstructing the administration of justice;
- (b) for wilfully, deliberately and contumaciously disobeying and resisting the lawful order and command of this Court by wilfully and deliberately refusing to obey the order of this Court to answer before the Grand Jury the questions that had been propounded to him as aforesaid.

Campbell, United States District Judge.

[fol. 34]

## IN THE UNITED STATES DISTRICT COURT

\* \* (Caption—G. J. No. 101,507) \* \*

**Transcript of Proceedings of August 18, 1959  
—Filed August 28, 1959**

Transcript of proceedings had at a hearing before the Hon. William J. Campbell, Chief Judge of said Court, in his courtroom, U. S. Courthouse, Chicago, Illinois, on Tuesday, August 18, 1959, at 4:00 o'clock p.m.

## APPEARANCES

Present: Mr. Max H. Goldschein, Special Attorney, Department of Justice, and Mr. Arthur D. Connelly, Assistant United States Attorney, On behalf of the Government;

Mr. James Piragine, On behalf of respondent, Armand Piemonte.

## COLLOQUY BETWEEN COURT AND COUNSEL

The Clerk: In the grand jury matter, No. 101,507, in the matter of certain grand jury proceedings.

Mr. Goldschein: The Government is ready.

The Court: You may proceed. I think your prima facie case is in on the two transcripts already filed, isn't it?

Mr. Goldschein: Yes.

The Court: You stand on the prima facie case?

Mr. Goldschein: Yes, sir, on the transcript already filed, the order of the Court, the so-called order.

On this order to show cause, may it please the Court, on the third line of the second paragraph there is a typographical error.

It reads:

"The Narcotic Control Act of 1957"

and it should have been "1956."

May I correct that?

[fol. 35] The Court: Leave to correct it on its face. You may do so after the hearing.

The Government's prima facie case in the matter before the Court is in on the transcripts already filed which have been made available to counsel for the respondent. I will hear the respondent's case.

Mr. Piragine: Yes, your Honor.

The Court: First of all, before we proceed, does the respondent persist in his refusal to obey the order of the Court to answer?

Mr. Piragine: Yes.

The Court: Very well, I will hear you.

Mr. Piragine: I would like to make a brief statement at this time, that I did converse with him after your Honor authorized the Clerk of this Court to disclose the transcript of the Grand Jury proceedings for August 10 and August 14, 1959. Prior to that time, as I understand, he did not have the aid or assistance of counsel, and I was called, as your Honor knows, and appeared before your Honor on the 14th of August.

The Court: That is right. That is prior to this hearing and I made these transcripts available to you so that you could be prepared. You may now proceed.

Mr. Piragine: After reading the transcript, I conversed with the respondent with reference to the questions as appearing in the transcript.

The Court: Yes.

Mr. Piragine: At this time, if the Court please, I would like to have marked as Respondent's Exhibit, Page 4, which is a part of the Chicago American edition, Friday, August 14, 1959, of the Chicago American, Diamond Final Edition, which is, I take it your Honor takes judicial notice, is a daily paper in Metropolitan Chicago area.

The Court: I buy it every afternoon.

[fol. 36] Mr. Piragine: All right, Judge, I have this marked as Respondent's Exhibit No. 1, for identification, particularly Page 4; also Page 4, of Part 1 of the Chicago Tribune, taken from the City Final, dated Saturday, August 15, 1959.

Would you please have this marked as Respondent's Exhibit No. 2, for identification.

The Court: Well, what is it?

Mr. Piragine: I would like, if I may for the record, read the portion which—

Mr. Goldschein: May I at this time—

The Court: Are you offering it in evidence?

Mr. Piragine: Yes, your Honor.

The Court: Hand it up. I don't know what they say. If they need to be read, I can read them.

Two articles?

Mr. Piragine: Yes, your Honor.

The Court: Hand them up.

Mr. Piragine: That is a statement from those papers, those editions.

The Court: What article is it?

Mr. Piragine: Which one is your Honor looking at?

The Court: "The second dope witness promised immunity," is that the one you mean?

Mr. Piragine: Yes.

The Court: That is on Page 4 of the American, issue of August 14th. That is your Respondent's Exhibit 1, for identification.

And the other is the Tribune of August 15th, Page 6, Part 1. I assume you are referring to the article where it says, it is captioned, "U. S. Witness refuses to name dope sellers." Is that it?

Mr. Piragine: That is correct.

The Court: All right.

[fol. 37] Very well, what is it you want to say about these?

Mr. Piragine: I would indicate to the Court that there is published in those two exhibits which I have had marked 1 and 2 of respondent's, the questions or a question which was asked of this respondent.

The Court: You be seated. You speak loud enough so that he can hear you.

Mr. Piragine: I am sorry. Each of these articles pertain to the question which was asked by the Grand Jury of this respondent.

I would further like to state for the record that pursuant to your Honor's order, that I did not read the transcript until 2:20 p.m. when Mr. Johnson, the Clerk of this Court, yesterday, on August 17, 1959, gave it to me.

Now, this is one of the bases, your Honor, of the so-called secrecy that should be for any witness who is called before the Grand Jury.

The Court: As much as either of those articles contains was discussed in open Court. The question wasn't read. I doubt if that is taken in *haec verba* from the transcript, either.

Mr. Piragine: I don't know if it was taken word for word, Judge, but if I may read for the record the second paragraph referring to Respondent's Exhibit 2—

The Court: It won't be necessary. If you want to offer them, I will receive them in evidence. I have already read them. They were handed up.

Mr. Piragine: The questions were published in the two exhibits which I have had marked on behalf of the respondent.

The Court: What else do you want to say? Any further evidence?

Mr. Piragine: I would like to put the respondent on.

The Court: Sir?

[fol. 38] Mr. Piragine: I would like to put the respondent on.

The Court: Certainly. Any evidence on behalf of the respondent will be received at this time.

Raise your right hand and be sworn.

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ARMAND PIEMONTE, the respondent herein, called as a witness in his own behalf, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Piragine:

Q. State your name, please.

A. Armand Piemonte.

Q. You are a respondent of the July, 1959 Grand Jury?

A. Yes, sir.

Q. At the present time, where are you residing?

A. Leavenworth Penitentiary.



Q. You are the Armand Piemonte who was sentenced to six years by his Honor, Judge Perry, on February 24, 1959?

A. I was sentenced in November, but I gave myself up in February.

Q. You started to serve time in February?

A. Yes.

Q. On August 10, 1959 and August 14, 1959, you appeared before the July Federal Grand Jury in this building, is that correct?

A. Correct.

Q. At that time you moved for your constitutional rights, under the Constitution of the United States?

A. Yes.

Q. Subsequent to your appearance on August 14, 1959, you then had an opportunity to converse with me as your attorney, is that correct?

A. Correct.

[fol. 39] Q. Now, will you tell his Honor, Judge Campbell, the basis for your refusal to answer questions propounded to you before the Federal Grand Jury on August 10th and August 14, 1959?

A. Well, I am doing time in the penitentiary. I fear for my life. I fear for the life of my wife, my two step-children, and my family. I can't do something like that. I want to live, too.

Q. What is your wife's name?

A. Eleanor.

Mr. Goldschein: We are objecting, if the Court please.

Mr. Piragine: No, what is his wife's name?

Mr. Goldschein: I am sorry.

By the Witness:

A. Eleanor.

By Mr. Piragine:

Q. What does your family consist of?

A. We have two children.

Q. Will you state their names and ages?



Mr. Goldschein: We are objecting, may it please the Court, to what his family consists of, or anything concerning his family. He is the witness before the Grand Jury.

The Court: Overruled.

By Mr. Piragine:

Q. Would you answer that, please? The Judge has permitted you to answer.

A. Bob Healey, 15 years old and Mary Ann Healey, thirteen.

Q. Are these your children or the children of your wife by a previous marriage?

A. The children of my wife by a previous marriage.

Q. Do they live with Mrs. Piemonte?

A. Yes, sir.

[fol. 40] Q. Prior to your incarceration, you were supporting both children and your wife?

A. I was helping.

Mr. Piragine: You may cross examine.

By Mr. Goldschein:

Q. Mr. Piemonte, you were in the narcotics business since 1954, were you not?

A. No, sir.

The Court: You should confine your cross examination to the subject of the direct examination.

Mr. Goldschein: No questions.

The Court: Sir?

Mr. Goldschein: No questions.

The Court: Very well.

Mr. Piragine: That is all.

The Court: You may step down.

(Witness excused.)

The Court: Further evidence on behalf of the respondent?

Mr. Piragine: Nothing further.

The Court: Rebuttal, if any, by the Government, on behalf of the Grand Jury?

Mr. Goldschein: None, sir.

The Court: Very well. I will hear you briefly in argument. You may speak first.

#### ARGUMENT OF MR. GOLDSCHHEIN

By Mr. Goldschein:

May it please the Court, the Grand Jury, the July 1959 Grand Jury, may it please the Court, is making an inquiry to determine the widespread narcotic activity in this area, in violation of the Federal Statutes.

The Narcotic Control Act of 1956 was passed to aid in this inquiry. Courts and the Congress can do no more than grant an individual immunity against self-incrimination. Up until that time there was no means by which the Grand Jury could get to those higher-ups in the narcotic traffic.

[fol. 41] With the aid of this 1956 Narcotic Control Act, the Government is supposed to try and develop testimony as to who are the importers, the distributors of this heroin.

The Grand Jury has brought a witness in who cannot be incriminated any further. He is not only serving time, but he cannot serve any more time, or be prosecuted any further for the testimony he gives. The fact that he is afraid means nothing. It is a device used by people like him to keep from testifying. He believes he is a stand-up guy and can just thwart the law.

May it please the Court, if this witness can get by without any additional punishment after he defies the Court on a matter of this sort, then the Narcotic Control Act of 1956 is useless and Grand Juries are impotent of making any inquiry.

We think, may it please the Court, that the only way that the narcotic traffic in this area can be curbed at all is by compelling people, traffickers, wholesalers and jobbers like this man—should, by the Court, be compelled to talk, because there isn't any other way that they can be reached, and the Congress has done everything that it can do by creating this or making this immunity statute.

The Court: I will hear argument on behalf of the respondent.

## ARGUMENT OF MR. PIRAGINE

Mr. Piragine: May it please your Honor, Judge Campbell, and Mr. Goldschein, I disagree with Mr. Goldschein. He states in this Court that this is something that this respondent has stated in this Court. I know, your Honor, has been a former United States Attorney in this District and many years on the bench. This man was in the traffic. He is paying his debt to society today, your Honor, when Judge Perry sentenced him to six years.

There is no willful attempt on his part to disobey the order of this Court, and it is not just being used. Your Honor knows of many instances of the lives of families, [fol. 42] and his own. The fact that he is in the Federal Penitentiary does not give him 100 per cent security; that his life is in danger; his loved ones; his mother, brothers, and the balance of his family, outside of his immediate family, consisting of his wife and children; that he has been serving since February six years.

Mr. Goldschein classified him as a wholesaler. There is no such evidence in this record, if the Court please. This defendant is just here for one purpose. We are appearing here today, and we also contend that by the immunity statute in effect circumventing the purpose and effect of the fifth amendment of the Constitution, as Congress has seen fit in each and every instance of every criminal statute in the Federal Code to pass and enact an immunity statute, and I believe this particular immunity statute under the Narcotic Control Act of 1956 has not been tested by the Supreme Court of the United States; and that if Congress were to pass an immunity statute in each and every instance, then we may just as well erase the fifth amendment from the Constitution.

As your Honor well knows, the fifth amendment to the Constitution was passed for the innocent as well as the guilty and I say your Honor—

The Court: I thought that applied to self-incrimination. Is there anything in the fifth amendment to protect the families or children of people who are asked to testify? I thought that was a privilege against self-incrimination.

Mr. Piragine: That is correct.

The Court: That is the only privilege this man asserted before the Grand Jury.

Mr. Piragine: He asserted—

The Court: I have granted him immunity from incrimination.

Mr. Piragine: Yes.

[fol. 43] The Court: Therefore, that is no longer in the case, is it?

Mr. Piragine: I understand; I understand, Judge.

As I indicated on August 10th and the 14th, that he invoked his constitutional rights.

The Court: I then granted immunity to protect those rights.

Mr. Piragine: That is right.

I say this, that this defendant was under the misapprehension that he is using the fifth amendment for protecting himself, but the real basis, he is here for contempt of an order of this Court, and that the basis of it is his fear of safety for himself and his family. It is not willful disobedience, if the Court please.

The Court: Possibly he should have thought of that before he got in this type of business for which he is now serving a sentence. I fail to see the materiality either of the evidence that you have adduced this afternoon or by your argument.

How about the lives of the people that are endangered by the narcotic drug traffic? How about the lives of the enforcement officers that are constantly in danger. By the type of business in which this man voluntarily, by reason, for all I know, is his present conviction. He voluntarily entered this type of business. No one told him, and there is no provision of the United States Constitution that says he has to engage in illegal traffic of narcotics. That is a dangerous business to begin with.

Neither the Constitution, nor Congress, nor this Court put him in that business. He put himself in that business. This is one of the dangers. He should have realized it before he started.

I fail to see the materiality of your argument. Have you any argument at all as to why the defendant should

[fol. 44] not be adjudged in contempt for willful failure to obey the lawful order of this Court.

Mr. Piragine: I will re-iterate, Judge, I don't think under the circumstances that when he appeared before the Grand Jury on the two dates, August 10th and the 14th, that before he was apprised of the entire thing, I respect your Honor, that your Honor did apprise him of his rights, and also the immunity.

I still say that I believe that after talking to him, he was under a misapprehension that his real basis for his disobedience is his fear that is imbedded.

The Court: It may well be his real reason, but that is not a legal reason for failure to obey my order.

Mr. Piragine: That is all I have to present, Judge.

The Court: Very well, do you persist in your refusal to obey the order of this Court to testify before the Grand Jury?

Mr. Piemonte: Yes, sir.

The Court: Rise, and come to the bar.

I will hear the Government in aggravation of punishment. The respondent is adjudged guilty of contempt of this Court for willful failure to obey a lawful order of this Court, duly entered.

Anything in aggravation of punishment? There will be a judgment of guilty on the order heretofore entered.

Mr. Goldschein: Yes, may it please the Court.

We urge the Court to impose such sentence on the defendant, and we know the sole power to punish lives rests with the Court, but we ask the Court to impose such a punishment as will not only be a lesson on this defendant but will also act as a reminder to all others who are going to appear before the Grand Jury to testify under the order of this Court, and be granted immunity under an order to testify, unless there is—

The Court: I understand there is a limit of six months on punishment for contempt?

[fol. 45] Mr. Goldschein: May it please the Court, I just received an opinion from the Ninth Circuit, in the Collins case, wherein Judge Matthews sentenced him to three years in the penitentiary to run consecutively or to commence

at the expiration of his present sentence, which was affirmed by the Ninth Circuit.

The Court: That is Matthews?

Mr. Goldschein: Judge Matthews was the trial judge.

The Court: The last one where he ran a concurrent sentence on contempt has been reversed by the Supreme Court.

Mr. Goldschein: That was in a constitutional privilege matter.

The Court: I remember the case well, one of the Communist cases.

Is it your contention that the six months' limitation does not apply?

Mr. Goldschein: It does not apply here.

The Court: Have you any authority on that?

Mr. Goldschein: I have two cases, may it please the Court—three of them, as a matter of fact, the Podusco case, in 255 Federal Reporter, 2nd series. The Podusco case, I tried that case in Detroit. It was affirmed by the Sixth Circuit and Judge Martin delivered the opinion in that case. He got two years.

The Court: What were the circumstances?

Mr. Goldschein: Exactly like this, the Narcotic Control Act, immunity.

The Court: Refusal to obey?

Mr. Goldschein: Obey the order of the Court.

Then there are two other cases, the Valucci case and the Corona case, also from the Sixth Circuit, per curiam opinion, where they also got two years, exactly the same. I tried those cases before Judge—I am sorry, I don't recall. In Detroit.

[fol. 46] The Court: Yes.

Mr. Goldschein: Affirmed by the—

The Court: The Court of Appeals of that Circuit?

Mr. Goldschein: The Court of Appeals, Sixth Circuit.

The Court: I will hear you in mitigation.

Mr. Piragine: Judge, this defendant is 44 years of age. As you know, he is married and has two children by a previous marriage of his wife.

He has, I believe, four years on the present sentence and as your Honor knows, there is no parole on the sen-

tence he is serving now. I ask your Honor to take that into consideration, the defendant's age, the present sentence he is now serving, and to deal with that situation, your Honor.

I know your Honor always has been fair. I don't know as I have read these cases. One was a *per curiam* opinion in the Corono case. I don't know, but in view of the fact Mr. Goldschein represented the Government, whether it was a situation where the defendant was serving time, I don't know.

Mr. Goldschein: Yes, sir.

The Court: Was he also incarcerated at the time?

Mr. Goldschein: Yes, sir.

Mr. Piragine: It is a *per curiam* case or opinion.

The Court: You have authority to the contrary?

Mr. Piragine: No, I don't have any at present, Judge.

The Court: Apparently a 6-month limitation does not apply in cases of this kind.

Mr. Goldschein: No, sir.

The Court: Anything the defendant cares to say before the imposition of sentence?

Mr. Piemonte: No, your Honor. I have a lot of time to do yet. I will be close to 50 when I get out of this. I got to go to work. I will have to do something when I get out.

[fol. 47] The Court: I will still give you a chance to go back and testify if you want to.

Mr. Piemonte: I would rather not.

The Court: I will set aside this judgment.

Mr. Piemonte: Your Honor, I am not trying to defy you or get smart, or anything like that. I just can't.

The Court: Very well, you must pay a penalty for it.

Mr. Piemonte: Well—

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#### SENTENCE

The Court: On the judgment heretofore entered, the defendant is sentenced to the custody of the Attorney General of the United States to be incarcerated in the penitentiary of the United States for a term of eighteen



months, said term to run consecutively to the sentence he is now serving in the United States Penitentiary at Leavenworth; That is to say, this sentence shall commence upon the termination of the sentence which he is now serving.

The respondent is remanded to the custody of the Marshal to be returned to the penitentiary from whence he came.

Mr. Piragine: Your Honor, just one request. He has asked me. I don't know whether your Honor—Mr. Goldschein, he was asking me, after this sentence, if there is any possibility of being taken out of the County Jail as soon as possible.

The Court: He will not be needed here any more. The Marshal will return him to Leavenworth forthwith, or as soon as the Marshal can make it. There is no need for keeping him in the County Jail.

Mr. Goldschein: No.

The Court: Return him to Leavenworth.

(Which were all of the proceedings had at the hearing of the above entitled cause.)

[fol. 48]

IN THE UNITED STATES DISTRICT COURT

(Caption—G. J. No. 10507)

JUDGMENT AND COMMITMENT—August 18, 1959

On this 18th day of August, 1959 came the attorney for the government and the respondent Armando Piemonte appeared in person and by counsel for hearing on the order entered on the respondent, Armando Piemonte, to show cause why he should not be held guilty of contempt of Court and the return thereon and the hearing proceeds and the Court having now heard the evidence adduced and the arguments presented and being fully advised

It Is Adjudged that the respondent is guilty of contempt for his willful failure to obey a lawful order of this Court, and

It Is Adjudged that the respondent Armando Piemonte is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Eighteen (18) Months, said sentence to run consecutively to the sentence the respondent is now serving in the United States Penitentiary at Leavenworth, Kansas, imposed by this Court i.e.; the sentence imposed this day shall commence on the termination of the sentence the respondent is now serving, and it is

Ordered that the respondent be and hereby is remanded to the custody of the United States Marshal for return to the United States Penitentiary at Leavenworth, Kansas, and.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

William J. Campbell, United States District Judge.

The Court recommends commitment to:  
August 18, 1959

[fol. 49]

IN THE UNITED STATES DISTRICT COURT

• • (Caption—G. J. No. 10507) • •

NOTICE OF APPEAL—Filed August 27, 1959

Name and Address of Appellant:

Armando Piemonte  
U. S. Penitentiary  
Leavenworth, Kansas

• Name and Address of Attorney for Appellant:

Frank W. Oliver  
33 North La Salle Street  
Chicago 2, Illinois

General Statement of Offense:

Contempt of court in refusing to respond to questions propounded by the Grand Jury.

**Judgment or Order:**

On August 18, 1959, the respondent, Piemonte, adjudged guilty of contempt of court, and sentenced to a term of imprisonment of 18 months.

**Place of Confinement:**

U. S. Penitentiary-  
Leavenworth, Kansas.

The above named defendant hereby appeals from the above stated judgment.

Armando Piemonte, Respondent-Appellant, By:  
Frank W. Oliver, His Attorney.

[fol. 50]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Judge Robson  
Criminal Calendar

No. 59CR466  
Via: Section 174,  
Title 21, United States  
Code.

UNITED STATES OF AMERICA,

v.

SHELDON R. TELLER, MILES J. COOPERMAN, RICHARD E. AUSTIN, JEREMIAH HOPE PULLINGS, alias Jerry Evans, ARMANDO PIEMONTE, SIMON H. STALLSWORTH, MORRIS WHEELER ROLLER, DOLORES KEEBY, alias Dee Dee, JAMES A. WHITE, FLORINE WHITLOW JOHNSON, alias Jayroe Emery, ALICE M. GILMORE, alias Mona Evans, GLADYS DAVIS, alias Gladys White, WILLIAM L. JONES.

INDICTMENT—Filed September 2, 1959

The July 1959 Grand Jury charges:

1. On or about the first day of August, 1954, and continuously thereafter up to and including the date of this

indictment, in the Northern District of Illinois, Eastern Division, and within the jurisdiction of this Court, the defendants,

Sheldon R. Teller,  
 Miles J. Cooperman,  
 Richard E. Austin,  
 Jeremiah Hope Pullings, alias Jerry Evans  
 Armando Piemontè,  
 Simon H. Stallsworth,  
 Morris Wheeler Roller,  
 Dolores Keeby, alias Dee Dee  
 James A. White,  
 Florine Whitlow Johnson, alias Jayree Emery  
 Alice M. Gilmore, alias Mona Evans  
 Gladys Davis, alias Gladys White  
 William L. Jones

and the following co-conspirators not named as defendants herein: Otis Sears, Earthie Lee Grace, Lydia Shorten, Jesse Maroy, Moses Winston Mardis, Maple Shorten, John Paul Dispensa, James Vincent Chiaro, James Jackson, and Bobby Ritchie; unlawfully, wilfully and knowingly com-[fol. 51] bined, conspired, confederated and agreed together and with each other and with divers other persons to the Grand Jury unknown to fraudulently and knowingly import and bring into the United States and territory under its control and jurisdiction narcotic drugs contrary to law and to receive, conceal, buy, sell and facilitate the transportation, concealment and sale of such narcotic drugs after being unlawfully imported and brought in, knowing the same to have been imported and brought into the United States contrary to law; in violation of Title 21, United States Code, Section 174.

2. That it was further a part of said conspiracy that the said defendants and co-conspirators would procure unlawfully quantities of heroin and cocaine, the amounts of which are to the Grand Jury unknown, in places within and without the Northern District of Illinois.

3. That it was further a part of said conspiracy that the said defendants and co-conspirators would sell and dis-

tribute unlawfully within and without the Northern District of Illinois quantities of heroin and cocaine, procured as aforesaid, the amounts of which are to the Grand Jury unknown.

4. That at all times herein referred to the defendants, Sheldon Teller and Richard Austin, were employed as police officers by the City of Chicago, Illinois.

5. That the defendant, Miles Cooperman, was employed as a police officer by the City of Chicago, Illinois, between August 1, 1954 and October 16, 1958.

6. That it was further a part of said conspiracy that the defendants, Sheldon Teller, Miles Cooperman and Richard Austin would advise the co-defendants and co-conspirators of the plans and activities of the governmental agencies charged with the responsibility of enforcing the laws of the United States, the State of Illinois, and the City of Chicago relating to the illicit traffic in narcotic drugs.

[fol. 52] 7. That it was further a part of said conspiracy that the defendants, Sheldon Teller, Miles Cooperman, and Richard Austin, would receive money from the said co-defendants and co-conspirators in return for protecting the illegal activities of the said co-defendants and co-conspirators from detection by the said governmental agencies.

8. That it was further a part of the said conspiracy that the said defendants and co-conspirators would misrepresent, conceal and hide and cause to be misrepresented, concealed and hidden the purposes of and the acts done in furtherance of the conspiracy.

9. That in furtherance of the said conspiracy and in pursuance of the objects thereof, the said defendants and co-conspirators performed the following overt acts:

#### OVERT ACTS

1. During the summer of 1955 defendant James White held a conversation with defendant Jeremiah Pullings.

2. During or about the months of January or February 1956 defendants, James White, Gladys Davis and Dolores Keeby, met with Lydia Shorten and Jesse Maroy in Chicago, Illinois.

3. During or about the month of February 1956 defendant Jeremiah Pullings held a conversation with Jesse Maroy.

4. During or about the month of March 1956 defendants, Sheldon Teller and Miles Cooperman, accepted the sum of approximately Six Hundred Dollars (\$600.00) in lawful money of the United States from Otis Sears.

5. During or about the month of July 1956 defendants, Sheldon Teller and Miles Cooperman, held a conversation with Jesse Maroy in Chicago, Illinois.

[fol. 53] 6. During the summer of 1956 defendant, Sheldon Teller, placed a telephone call to Hudson 8-4348 in Chicago, Illinois.

7. During the summer of 1956 defendant, Miles Cooperman, held a conversation with defendant, Morris Roller, at or near 202 East 79th Street, Chicago, Illinois.

8. During or about January 1957 defendant, Morris Roller, held a conversation with Lydia Shorten in Chicago, Illinois.

9. On or about January 9, 10 and 11, 1958 the defendants, Jeremiah Pullings, Alice Gilmore, Morris Roller and Florine Whitlow Johnson, met and conversed with Victoria Marie Basemore and Narcotic Agent James S. Bailey at 9731 South Perry Avenue, Chicago, Illinois.

10. On or about January 11, 1958 the defendant, Florine Whitlow Johnson, delivered a quantity of heroin to Victoria Marie Basemore.

11. On or about February 9, 1958, defendant, Dolores Keeby, delivered a quantity of heroin to Maple Shorten.

12. On or about February 3, 1958, defendant, Alice Gilmore, accepted the sum of approximately Seven Hundred

Dollars (\$700.00) in lawful money of the United States from James S. Bailey.

13. On or about February 5, 1958 defendant, Alice Gilmore, had a telephone conversation from Chicago, Illinois, with Narcotic Agent James S. Bailey in Miami, Florida.

14. During or about February 1958 the defendants, Sheldon Teller and Miles Cooperman, delivered a quantity of cocaine to Otis Sears and defendant Simon Stallsworth.

15. On or about March 22, 1958 the defendants, Sheldon Teller and Miles Cooperman, met with John Paul Dispensa in Evergreen Park, Illinois.

[fol. 54] 16. During 1958 defendant, William Jones, paid the sum of approximately Five Hundred Dollars (\$500.00) in lawful money of the United States to Moses Winston Mardis.

17. During 1958 defendant, Sheldon Teller, received a payment of approximately Five Hundred Dollars (\$500.00) in lawful money of the United States, in Chicago, Illinois.

18. The defendant, Miles Cooperman, held a conversation with Otis Sears and the defendant, Armando Piemonte, during or about the month of May 1958.

19. During or about the early months of 1958 defendants, Sheldon Teller and Miles Cooperman, delivered to Otis Sears, heroin weighing approximately one-quarter kilogram at or about the intersection of 60th Street and Dorchester Avenue in Chicago, Illinois.

20. The defendant, Sheldon Teller, accepted the sum of about approximately Four Thousand Seven Hundred Dollars (\$4,700.00) in lawful money of the United States from Otis Sears during or about the early months of 1958 in payment for the heroin delivered as hereinabove set forth as Overt Act No. 19.

[fol. 55] 21. During or about November 1958 defendants, Sheldon Teller and Richard E. Austin, paid the sum of approximately Eight Hundred Dollars (\$800.00) in lawful money of the United States to Otis Sears.



All in violation of Title 21, United States Code, Section 174.

A True Bill:

William N. Bollinger, Foreman.

R. Timkin, United States Attorney; Max H. Goldschein, Special Attorney, Department of Justice.

[fol. 56]

No. 59CR466

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE UNITED STATES OF AMERICA,

vs.

SHELDON R. TELLER, MILES J. COOPERMAN, RICHARD E. AUSTIN, JEREMIAH HOPE PULLINGS, alias Jerry Evans, ARMANDO PIEMONTE, SIMON H. STALLSWORTH, MORRIS WHEELER ROLLER, DOLORES KEEBY, alias Dee Dee, JAMES A. WHITE, FLORINE WHITLOW JOHNSON, alias Jayreese Emery, ALICE M. GILMORE, alias Mona Evans, GLADYS DAVIS, alias Gladys White, WILLIAM L. JONES.

INDICTMENT

Vio: Section 174, Title 21, United States Code.  
(Conspiracy to violate the narcotic laws of the United States.)

A true bill,

William N. Bollinger, Foreman.

Filed in open court this 2nd day of Sept., A. D. 1959.

Roy H. Johnson, Clerk.

DB

Bail, \$ .....

[fol. 57] IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

No. 12819 September Term, 1959—January Session, 1960

Appeal from the United States District Court for the  
Northern District of Illinois, Eastern Division.

ARMANDO PIEMONTE, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

DECISION—February 29, 1960

Before: Hastings, Chief Judge, and Duffy and Castle,  
Circuit Judges.

DUFFY, Circuit Judge:

This is an appeal from an order of the District Court adjudging appellant guilty of contempt of court for failing to answer a number of questions propounded by a Federal Grand Jury.

On August 10, 1959, appellant appeared as a witness before a Federal Grand Jury sitting in Chicago, Illinois, pursuant to a writ of *habeas corpus ad testificandum* which was served on the warden of the Federal Penitentiary at Leavenworth, Kansas. Appellant answered his name and admitted he was imprisoned in the Leavenworth penitentiary under a sentence of six years for the possession and sale of heroin. When asked where he obtained the heroin which he was convicted of having possessed and sold, he declined to answer on the ground he might incriminate himself. Thereafter, he declined on the same ground to answer other questions such as whether he [fol. 58] knew certain named persons, whether he had obtained heroin from such named persons, or sold heroin or marijuana to them.

On August 13, 1959, the Grand Jury requested a ruling by the Court on appellant's claim of privilege. Judge Campbell ruled that the privilege was well taken except as to those questions asked on August 10 relating to the source of the particular narcotic drugs upon which his prior conviction rested. Immediately thereafter, the Court received the Government's petition for an order directing appellant to answer questions pursuant to 18 U.S.C. § 1406, the immunity provisions of the Narcotics Control Act of 1956.<sup>1</sup> The Court granted the application and stated to plaintiff: "It, therefore, is no longer necessary for you to invoke the protection of the Fifth Amendment to protect yourself from incrimination or subsequent prosecution, because pursuant to the provisions of the Narcotic Control Act, I now grant you immunity from such prosecution and

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<sup>1</sup> Pertinent are the following provisions of Title 18 U.S.C. § 1406: "Immunity of Witnesses. Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of—

- 1) any provision of part I or part II of Subchapter A of chapter 39 of the Internal Revenue Code of 1954 the penalty for which is provided in subsection (a) or (b) of section 7237 of such Code,
- 2) subsection (c), (h), or (i) of Section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U.S.C., sec. 174); or
- 3) the Act of July 11, 1941, as amended (21 U.S.C., sec. 184a), is necessary to the public interest, he, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except prosecution described in the next sentence) against him in any court. . . ."

direct you to answer the questions propounded to you by the Grand Jury."

The Court directed appellant's appearance before the Grand Jury be deferred until the following day so that he might consult counsel in the interim. The Court ex- [fol. 59] plained to appellant that his failure to abide by the order of the Court could result in his punishment for contempt. The record shows that appellant had consulted counsel shortly prior to his first appearance before the Grand Jury.

The following day, appellant again appeared before the Grand Jury. He was asked the identical questions asked him on the previous day as well as ten or fifteen additional ones. Appellant refused to answer any of the questions, relying upon his privilege against self-incrimination.

Appellant's counsel argues that in its verbal order, the District Court told Piemonte that it was granting immunity, but counsel argues the Court had no such power. Counsel contends the written order which followed made no mention of immunity, stating only the order was made in accordance with § 1406, Title 28, U.S.C. He also urges Piemonte was much confused, and that the meaning of the alleged conflicting orders was hopelessly blurred.

The record clearly demonstrates that Piemonte understood what questions he was ordered to answer. When, for a second time, he refused to answer, Judge Campbell issued an order to show cause why Piemonte should not be held in wilful and deliberate contempt. On direct examination by his own counsel, the following exchange took place:

"Q. Now, will you tell his Honor, Judge Campbell, the basis for your refusal to answer questions propounded to you before the Federal Grand Jury on August 10th and August 14, 1959?

"A. Well, I am doing time in the penitentiary. I fear for my life. I fear for the life of my wife, my two stepchildren, and my family. I can't do something like that. I want to live, too."

During the argument, appellant's counsel said: " \* \* \* His real basis for his disobedience is his fear that is

embedded." The District Court interjected, "It may well be his real reason, but that is not a legal reason for failure to obey my order." It would seem that the District Court was on solid ground in holding that fear of underworld retaliation is no reason to excuse the appellant from his obligation to testify under a complete grant of immunity.

[fol. 60] Judge Campbell was very patient with the witness and time after time gave him opportunity to say that he would testify before the Grand Jury. However, Piemonte steadfastly refused.

There is no indication that there was any confusion in Piemonte's mind. He understood the alternative, and deliberately chose to defy the Court. He stated: "Your Honor, I am not trying to defy you or get smart, or anything like that. I just can't." All these exchanges hereinbefore quoted took place in open court in the presence of appellant's attorney.

Strictly speaking, the criticism may be well-founded that the Court itself could not grant the immunity. However, the statute granted the immunity and the manner in which Judge Campbell expressed that immunity was not in any way confusing to Piemonte.

The judgment of the District Court holding and finding that Armando Piemonte was guilty of contempt of court must be and is hereby

Affirmed.

[fol. 61]

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT  
Chicago 10, Illinois

Before: Hon. John S. Hastings, Chief Judge, Hon. F. Ryan Duffy, Circuit Judge, Hon. Latham Castle, Circuit Judge.

In Re Certain Grand Jury Proceedings, in re Armando Piemonte.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 12819

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ARMANDO PIEMONTE, Appellant,

vs.

UNITED STATES OF AMERICA, Appellee.

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JUDGMENT—February 29, 1960

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this court that the order of the said District Court in this cause appealed from, entered therein on August 18, 1959, holding and finding that Armando Piemonte was guilty of contempt of court be, and the same is hereby, Affirmed, in accordance with the opinion of this Court filed this day.

[fol. 62]

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

[Title omitted]

ORDER DENYING PETITION FOR REHEARING—May 3, 1960.

It is ordered by the Court that the petition for a rehearing of this cause be, and the same is hereby, Denied.

[fol. 63] Clerk's Certificate to Foregoing Transcript  
(omitted in printing).

[fol. 64]

SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed October 10, 1960

The petition herein for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.